



January 25, 2002

HOUSE BILL No. 1224

DIGEST OF HB 1224 (Updated January 23, 2002 5:40 PM - DI 75)

Citations Affected: IC 3-5; IC 3-7; IC 3-11; IC 3-11.5; IC 3-11.7; IC 3-12; IC 3-14.

Synopsis: Voting systems and voter registration. Provides that certain voters whose registration is in question may cast a provisional ballot. Provides that furnishing all voters of the county with a sample ballot is an expense for which counties may be reimbursed from the voting systems education fund. Provides that any voter may vote by absentee ballot in the office of the circuit court clerk or satellite offices. Permits military and overseas voters to submit absentee ballots by fax under certain circumstances. Makes other changes relating to casting absentee ballots. Removes language that permits the use of noncompliant voting systems under certain circumstances. Provides for the use of voting systems that furnish a practical and effective means for voters with disabilities to cast ballots in private. Requires that after December 31, 2004, a voting system must demonstrate to the voter whether the voter's ballot has overvotes or undervotes if the voting system is capable of providing this information. Repeals superseded statutes relating to: (1) registration of military voters and overseas voters; and (2) counting absentee ballots at a central location.

Effective: July 1, 2002; January 1, 2003.

Weinzapfel, Stilwell, Richardson

January 10, 2002, read first time and referred to Committee on Elections and Apportionment.
January 24, 2002, amended, reported — Do Pass.

HB 1224—LS 7135/DI 75+



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January 25, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1224

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-5-2-23.7 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
- 3 JANUARY 1, 2003]: **Sec. 23.7. "Fax" refers to transmission of**
- 4 **information by a facsimile (fax) machine.**
- 5 SECTION 2. IC 3-5-2-40.7 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 7 1, 2002]: **Sec. 40.7. "Provisional voter" refers to an individual who**
- 8 **is entitled to cast a provisional ballot under IC 3-11.7.**
- 9 SECTION 3. IC 3-5-2-41.7 IS ADDED TO THE INDIANA CODE
- 10 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 11 1, 2002]: **Sec. 41.7. "Registration agency" refers to any of the**
- 12 **following:**
- 13 (1) **The bureau of motor vehicles.**
- 14 (2) **Any other agency at which individuals may register to vote**
- 15 **under IC 3-7.**
- 16 SECTION 4. IC 3-5-4-8, AS AMENDED BY P.L.38-1999,
- 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2002]: Sec. 8. (a) Except as provided in subsection (e), but notwithstanding any other statute, whenever the commission acts under IC 3-6-4.1-14 to approve a uniform election or registration form for use throughout Indiana or to approve a revision to an existing form, a person must use the most recent version of the form approved by the commission to comply with this title after the effective date of the commission's order approving the form.

(b) Except as provided in subsection (d) or (f), before an order approving a form takes effect under this section, the election division shall transmit a copy of each form or revised form approved by the order to the following:

(1) Each circuit court clerk, if the commission determines that the form is primarily used by a candidate, a county election board member, a county or town political party, or for absentee **or provisional** ballot purposes.

(2) Each county voter registration office, if the commission determines that the form is primarily used in voter registration.

(3) The state chairman of each major political party.

(4) The state chairman of any other political party who has filed a written request with the election division during the preceding twelve (12) months to be furnished with copies of forms.

(c) The election division, an election board, a circuit court clerk, a county voter registration office, or any other official responsible for receiving a filing under this title shall reject a filing that does not comply with this section.

(d) The commission shall specify the effective date of the form or revised form and may:

(1) delay the effective date of the approval of a form or revised form; and

(2) permit an earlier approved version of the form or an alternative form to be used before the effective date of the form; if the commission determines that an emergency requires the use of the form before copies can be transmitted to all persons entitled to receive copies of the form under subsection (b).

(e) This subsection applies to a form permitting an individual to apply for voter registration or to amend the individual's existing voter registration record. The commission may allow an earlier approved version of the form to be used if the:

(1) earlier version of the form complies with all other requirements imposed under NVRA or this title; and

(2) commission determines that the existing stock of the form should be exhausted to prevent waste and unnecessary expense.



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(f) This subsection applies to a form that the commission determines is used primarily by the election division. The commission may provide that an order concerning a form described by this subsection is effective immediately upon adoption, without any requirement to distribute the form to other persons.

SECTION 5. IC 3-7-36-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. A voter described in section 1 of this chapter who **wants to:**

(1) ~~is eligible for an vote~~ by absentee ballot under IC 3-11-4; and
 (2) ~~wants to~~ execute an affidavit or a form for voter registration; is not required to sign the affidavit or form in the presence of a person authorized to administer an oath, and the affidavit or form need not be signed by such a person.

SECTION 6. IC 3-7-36-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. (a) This section does not apply to a voter who files a combined absentee registration form and absentee ballot request.

(b) When a circuit court clerk or board of registration receives an application for absentee registration, the clerk or board shall promptly mail or deliver to the applicant the affidavit prescribed by this ~~chapter~~ **title** for the registration of an absentee voter by absentee process.

(c) When the properly executed and certified affidavit is returned to the clerk or board, the applicant becomes a registered voter in the precinct of residence.

SECTION 7. IC 3-7-48-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. **(a)** Except as otherwise provided by NVRA or in this chapter, a person whose name does not appear on the registration record may not vote, unless the circuit court clerk or board of registration provides a signed certificate of error in the office where the permanent registration record is kept showing that the voter is legally registered in the precinct where the voter resides.

(b) A person whose name does not appear on the registration record may cast a provisional ballot as provided in IC 3-11.7.

SECTION 8. IC 3-11-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The election division shall have printed and shall distribute to the circuit court clerk of each county at each general election **the following:**

(1) If only paper ballots are used, the number of state paper ballots (and presidential ballots in a presidential election year) equal to one hundred percent (100%) of the number of voters in the county. ~~and~~

(2) If voting machines, ballot card voting systems, or electronic



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voting systems are used, only the number of presidential and state paper ballots that, in the election division's judgment, are necessary to meet an emergency.

(3) After December 31, 2003, the number of provisional ballots for state offices (and provisional ballots for President of the United States in presidential election years).

(b) The paper ballots shall be wrapped in packages, plainly marked, and securely sealed.

(c) The provisional ballots shall be separately wrapped in packages from the other paper ballots, plainly marked, and securely sealed.

~~(c)~~ **(d) The clerk shall give a receipt for the paper ballots and the provisional ballots.**

SECTION 9. IC 3-11-3-6, AS AMENDED BY P.L.176-1999, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. **(a)** The election division shall deliver:

(1) the state and presidential paper ballots; and

(2) after December 31, 2003, the provisional ballots for state offices and presidential provisional ballots;

by certified mail, or by another means of delivery that includes a return receipt.

(b) The election division shall mail the paper and provisional ballots to:

(1) each circuit court clerk; or

(2) in a county subject to IC 3-6-5.2, the director of the board of elections and registration.

SECTION 10. IC 3-11-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. The county election board shall deliver the following to each inspector or the inspector's representative:

(1) The sealed package of paper ballots, provisional ballots, sample ballots, and any other supplies provided for the inspector's precinct by the election division.

(2) The local sample ballots, and the ballot labels, if any, and all poll lists, registration lists, and other supplies considered necessary to conduct the election in the inspector's precinct.

(3) The local ballots printed under the direction of the county election board as follows:

(A) The number of ballots equal to one hundred percent (100%) of the number of voters in the inspector's precinct, according to the poll list.

(B) In those precincts where voting machines, ballot card

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1 systems, or electronic voting systems are to be used, the
 2 number of paper ballots that will be required for emergency
 3 purposes only.

4 **(C) Provisional ballots in the number considered necessary**
 5 **by the county election board.**

6 (4) Twenty (20) ink pens suitable for printing the names of
 7 write-in candidates on the ballot or ballot envelope.

8 SECTION 11. IC 3-11-3-12 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 12. **(a)** The local ballots
 10 delivered to the inspector of each precinct under section 11 of this
 11 chapter shall be placed in a strong and stout paper envelope or bag,
 12 which shall then be tightly closed, fastened securely, and attested by
 13 the initials of the circuit court clerk or the clerk's designee in the
 14 presence of the inspector or the inspector's representative. The
 15 inspector shall sign a receipt for the ballots. The ballot packages may
 16 not be opened until:

17 (1) they have been delivered to the precinct election board to
 18 which they are directed; and

19 (2) the precinct election board is fully organized and ready for the
 20 reception of votes.

21 **(b) The local provisional ballots delivered to the inspector of**
 22 **each precinct under section 11 of this chapter shall be placed in a**
 23 **strong and stout paper envelope or bag, separate from the bag**
 24 **described in subsection (a), which shall then be tightly closed,**
 25 **fastened securely, and attested by the initials of the circuit court**
 26 **clerk or the clerk's designee in the presence of the inspector or the**
 27 **inspector's representative. The inspector shall sign a receipt for the**
 28 **provisional ballots. The provisional ballot packages may not be**
 29 **opened until:**

30 (1) they have been delivered to the precinct election board to
 31 which they are directed; and

32 (2) the precinct election board is fully organized and ready to
 33 receive votes.

34 SECTION 12. IC 3-11-3-30 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 30. The circuit court
 36 clerk, if time permits before the ballots are delivered to the precincts,
 37 the poll clerks, or members of the absentee voter board, shall put one
 38 (1) of the pasters required by sections 29 and 29.5 of this chapter in the
 39 proper place on each ballot label bearing the name of the former
 40 candidate and on each paper ballot, **provisional ballot**, or ballot card
 41 to be voted in the precinct before they sign their initials on the ballot.
 42 The circuit court clerk shall put one (1) of the pasters on each ballot to



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be voted by an absentee voter before the clerk signs the ballot.

SECTION 13. IC 3-11-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 31. **(a)** Each county election board shall preserve the unused ballots that are left over after supplying the precincts, as prescribed by section 11 of this chapter. The ballots shall be preserved until expiration of the time for filing a contest or recount petition under IC 3-12.

(b) The board shall then destroy all of the ballots, except for one (1) **regular ballot and one (1) provisional ballot.**

SECTION 14. IC 3-11-3-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 32. **(a)** The county election board shall securely paste the one (1) **regular** ballot that was preserved under section 31 of this chapter in the election record immediately before the ~~place where the vote is to be recorded.~~ **provisional ballot placed under subsection (b).** The board shall also enter below the ballot the number of ballots:

- (1) printed by the board;
- (2) delivered to each messenger; and
- (3) destroyed by the board.

(b) The county election board shall securely paste the one (1) provisional ballot that was preserved under section 31 of this chapter in the election record immediately after the regular ballot placed in the record under subsection (a) and immediately before the place where the vote is to be recorded. The board shall also enter below the provisional ballot the number of provisional ballots:

- (1) printed by the board;**
- (2) delivered to each messenger; and**
- (3) destroyed by the board.**

SECTION 15. IC 3-11-4-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. **0.5. For purposes of this chapter, an absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:**

- (1) sent by United States mail addressed to the voter;**
- (2) transmitted by fax to a number provided by the voter; or**
- (3) personally given to the voter.**

SECTION 16. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. (a) A voter who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, ~~but who expects to be:~~

- ~~(1) absent from the county on election day;~~



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(2) absent from the precinct of the voter's residence on election day because of service as a precinct election officer under IC 3-6-5, IC 3-6-6, or IC 3-6-8; as a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10; as a challenger or pollbook holder under IC 3-6-7; or as a person employed by an election board to administer the election for which the absentee ballot is requested;

(3) confined on election day to the voter's residence; to a health care facility; or to a hospital because of an illness or injury;

(4) a voter with disabilities;

(5) an elderly voter;

(6) prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury; or

(7) scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open;

is eligible entitled to vote by absentee ballot. **Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk or at a satellite office established under IC 3-11-10-26.3.**

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 17. IC 3-11-4-2, AS AMENDED BY P.L.38-1999, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 2. (a) A voter who **is eligible wants** to vote by absentee ballot must apply to the county election board for an official absentee ballot.

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(b) If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

SECTION 18. IC 3-11-4-3, AS AMENDED BY P.L.176-1999, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b) and sections 6 and 8 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

(1) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk.

(2) Noon on the day before election day if:

(A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.

(3) Midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by a ~~facsimile~~ fax; ~~machine~~; from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by ~~facsimile~~ fax, ~~transmission~~, mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by ~~facsimile~~ fax ~~transmission~~ or hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

SECTION 19. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Applications may be made:

(1) in person;

(2) by fax; ~~transmission~~; or

(3) by mail;

on application forms furnished by the county election board or



approved by the commission.

(b) Application forms shall:

(1) be furnished to all central committees in the county no later than:

(A) June 15, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or

(B) January 15, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;

(2) be:

(A) mailed; or

(B) ~~except as provided in subsection (c);~~ transmitted by fax; ~~machine;~~

upon request, to a voter applying by mail, by telephone, or by fax; ~~transmission;~~ and

(3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

(1) accept; and

(2) transmit;

applications for absentee ballots under subsection (a) ~~using a facsimile (FAX) machine. only if the county election board owns or has access to a FAX machine. However, by fax.~~ A county election board shall accept an application for an absentee ballot transmitted by fax ~~machine~~ even though the application is delivered to the county election board by a person other than the person submitting the application.

SECTION 20. IC 3-11-4-6, AS AMENDED BY P.L.273-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for **the following:**

(1) An absent uniformed services voter. ~~(as defined in 42 U.S.C. 1973ff-6(1)); and~~

(2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).

(3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.



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(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) Whenever ~~an absent uniformed services voter or an address confidentiality program participant (as defined in IC 5-26.5-1-6)~~ **a voter described in subsection (a)** files an application for a primary election absentee ballot and indicates on the application that:

(1) the voter is an absent uniformed services voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application; ~~or~~

(2) the voter is an address confidentiality program participant; ~~or~~

(3) the voter is an overseas voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application;

the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and ~~mail~~ **send** general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and ~~mailed sent~~ under this chapter.

(f) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

(1) To a law enforcement agency, upon request.

(2) As directed by a court order.

(g) ~~This subsection applies to a county election board that owns or has access to a facsimile (FAX) machine.~~ The county election board ~~may~~ **shall** transmit and receive absentee ballots by fax ~~machine to~~

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voters covered under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff) under the following circumstances:

(1) If an emergency is declared by the President of the United States, the Congress of the United States, or the presidential designee under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff);

(2) If otherwise mandated to do so under federal law;

to an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax, the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot."

(h) The county election board shall send confirmation to a voter described in subsection (g) that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If the voter does not provide a fax number or an electronic mail address, the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

SECTION 21. IC 3-11-4-7, AS AMENDED BY P.L.273-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 7. (a) An absentee ballot application under section 6 of this chapter must

(1) be made on a standard form approved under 42 U.S.C. 1973ff(b) or on the form prescribed by the commission under section 5.1 of this chapter. and

(2) show that the: (b) An absentee ballot application under section 6 of this chapter from an:

(A) (1) absent uniformed services voter; (as defined in 42 U.S.C. 1973ff-6(1)); or

(B) (2) address confidentiality program participant (as defined in

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IC 5-26.5-1-6);

must show that the voter or program participant is a resident otherwise qualified to vote in the precinct.

(c) An absentee ballot application under section 6 of this chapter from an overseas voter must show that the overseas voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the United States.

SECTION 22. IC 3-11-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. (a) Except as provided in subsection (b); an overseas voter may apply for an absentee ballot from this state and vote by absentee ballot in an election in this state for which the voter is qualified and in which absentee ballots are used:

(b) An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.

(c) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (d); the person may apply for an absentee ballot at any time after the applications are made available.

(d) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(e) If the county election board receives an absentee ballot application from a person described by this section; the circuit court clerk shall mail to the person; free of postage to the extent as provided by 39 U.S.C. 3406; all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(f) Whenever an overseas voter files an application for a primary election absentee ballot under this section and indicates on the application that the voter does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application; the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and mail general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and mailed under this chapter.



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SECTION 23. IC 3-11-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record **all of the following:**

- (1) The voter's name.
- (2) The date the application is received.
- (3) The date the ballot is ~~mailed or delivered~~ sent to the voter.
- (4) If mailed, the address to which the ballot is sent.
- (5) **If transmitted by fax, the fax number to which the ballot is faxed.**
- (6) The date the ballot is marked before the clerk or otherwise received from the voter. ~~and~~
- ~~(6)~~ (7) Any other information that is necessary or advisable.

SECTION 24. IC 3-11-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 18. (a) If a voter ~~is entitled to vote an absentee ballot,~~ **satisfies any of the following**, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

- (1) **The voter will be absent from the county on election day.**
- (2) **The voter will be absent from the precinct of the voter's residence on election day because of service as:**
 - (A) a precinct election officer under IC 3-6-6;
 - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - (C) a challenger or pollbook holder under IC 3-6-7; or
 - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
- (3) **The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.**
- (4) **The voter is a voter with disabilities.**
- (5) **The voter is an elderly voter.**
- (6) **The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.**
- (7) **The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.**

(b) The ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;



1 whichever is later.

2 (c) In addition to the ballot mailed under subsection (b), the county
3 election board shall mail a special absentee ballot for

4 ~~(1) absent uniformed services voters; and~~

5 ~~(2) overseas voters.~~

6 ~~who will be outside of the United States on general election day.~~

7 (d) The ballot described in subsection (c):

8 (1) must be mailed:

9 (A) on the day of the receipt of the voter's application; or

10 (B) not more than five (5) days after the date of delivery of the

11 ballots under section 13(b) of this chapter;

12 whichever is later; and

13 (2) may not be mailed after the absentee ballots described by
14 section 13(a) of this chapter have been delivered to the circuit
15 court clerk or the clerk's authorized deputy.

16 SECTION 25. IC 3-11-4-22 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 22. Each circuit
18 court clerk shall **do both of the following**:

19 (1) Keep a separate absentee ballot record for each precinct in the
20 county. ~~and~~

21 (2) Certify to each inspector, at the time that the absentee ballots
22 are delivered, **all the following**:

23 (A) The number of absentee ballots ~~delivered or mailed sent~~
24 to each absentee voter.

25 (B) The number of absentee ballots marked before the clerk.
26 ~~and~~

27 (C) The names of the voters to whom the ballots were
28 ~~delivered or mailed sent~~ or who marked ballots in person.

29 SECTION 26. IC 3-11-6.5-8, AS ADDED BY P.L.239-2001,
30 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2002]: Sec. 8. (a) To receive payment for the development and
32 implementation of a program for educating voters about voting
33 procedures, a county must make an application to the budget agency in
34 the form required by the budget agency.

35 (b) The budget agency, after review by the budget committee, shall
36 approve a county's application for payment under this chapter if the
37 county's application demonstrates to the budget agency all of the
38 following:

39 (1) That the county has developed a program for educating voters
40 about the use of the county's voting system.

41 (2) That the commission has approved the program and the
42 county's implementation plan for the program.



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(3) That the program will enhance all of the following:

(A) Familiarity of voters with the county's voting system.

(B) Accessibility of the county's voting system to voters.

(C) Ease of use of the county's voting system by voters.

(D) Public confidence in the county's voting system.

(c) The budget agency shall approve a county's application, or that part of a county's application, that provides for furnishing all voters of the county with sample ballots before an election.

~~(c)~~ **(d)** If a county's application is approved under this section, the division shall, subject to subsection ~~(d)~~; **(e)**, pay the county from the voting system education fund an amount equal to fifty percent (50%) of the amount of reasonable development and implementation costs of the county's program for educating voters about voting procedures, as determined by the budget agency.

~~(d)~~ **(e)** Payment of money from the voting system education fund under this section is subject to the availability of money in the fund and the requirements of this chapter.

SECTION 27. IC 3-11-7-17, AS AMENDED BY P.L.176-1999, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 17. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine a ballot card voting system that the commission has previously approved to determine if the system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the vendor.

(c) If the commission's approval is rescinded under subsection (b), the commission may, by unanimous vote of all of the members of the commission:

(1) recommend that use of the system be discontinued; and

(2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to a ballot card voting system approved for its initial certification before:

(1) March 25, 1992; or

(2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership,

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1 require the voting system to be tested by an independent authority
 2 designated by the commission. The vendor shall pay any testing
 3 expenses under this subsection.

4 (e) If the independent testing authority determines that a voting
 5 system tested under subsection (d) does not comply with this article,
 6 the commission may, by unanimous consent of its entire membership,
 7 prohibit the system from being leased, marketed, or sold for use in
 8 Indiana in an election conducted under this title.

9 (f) This subsection applies to a ballot card voting system that:

10 (1) the commission has recommended discontinuing under
 11 subsection (e); or

12 (2) an independent testing authority has determined under
 13 subsection (e) to be out of compliance with this article:

14 Notwithstanding the recommendation under subsection (e) or the
 15 determination under subsection (e), a ballot card voting system may be
 16 used in a county until the circuit court clerk or the county election
 17 board of a county that uses the ballot card voting system files a request
 18 with the election division for an investigation of the ballot card voting
 19 system and the commission, by unanimous consent of its entire
 20 membership, makes a finding under subsection (g):

21 (g) The commission finding described under subsection (f) must
 22 satisfy both of the following:

23 (1) Be based on evidence of the ballot card voting system's use by
 24 a county election board:

25 (2) Contain the following determinations:

26 (A) The use of the voting system has resulted in a clear pattern
 27 of unreliable or erroneous casting or tabulation of ballots:

28 (B) The continued use of the voting system would undermine
 29 the public confidence in the accuracy and integrity of Indiana's
 30 electoral system:

31 SECTION 28. IC 3-11-7.5-26, AS AMENDED BY P.L.176-1999,
 32 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2002]: Sec. 26. (a) The election division (or a competent
 34 person designated by the commission to act on behalf of the election
 35 division) may periodically examine an electronic voting system that the
 36 commission has previously approved to determine if that system is still
 37 in compliance with all statutory requirements.

38 (b) If the election division or competent person finds that a system
 39 examined under subsection (a) fails to meet all requirements and
 40 standards, and the commission concurs in these findings, the
 41 commission may, by unanimous vote of all of the members of the
 42 commission, rescind the commission's approval of the vendor.



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(c) If the commission's approval is rescinded under subsection (b), the commission may by unanimous vote of all of the members of the commission:

- (1) recommend that use of the system be discontinued; and
- (2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to an electronic voting system approved for its initial certification before:

- (1) March 25, 1992; or
- (2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(f) This subsection applies to an electronic voting system that:

- (1) the commission has recommended discontinuing under subsection (e); or
- (2) an independent testing authority has determined under subsection (e) to be out of compliance with this article:

Notwithstanding the recommendation under subsection (e) or the determination under subsection (e), an electronic voting system may be used in a county until the circuit court clerk or the county election board of a county that uses the electronic voting system files a request with the election division for an investigation of the electronic voting system and the commission, by unanimous consent of its entire membership, makes a finding under subsection (g):

(g) The commission finding described under subsection (f) must satisfy both of the following:

- (1) Be based on evidence of the electronic voting system's use by a county election board;
- (2) Contain the following determinations:
 - (A) The use of the voting system has resulted in a clear pattern of unreliable or erroneous casting or tabulation of ballots;
 - (B) The continued use of the voting system would undermine the public confidence in the accuracy and integrity of Indiana's



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~~electoral system.~~

SECTION 29. IC 3-11-8-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 22. **(a)** A voter challenged under section 20 of this chapter may vote if the voter makes an affidavit in writing that the voter is a legal voter of the precinct and **either of the following applies:**

- (1) The voter's name appears on the registration list. ~~or~~
- (2) The voter does one (1) of the following:
 - (A) Produces a certificate of error issued by a registration official of the county in accordance with IC 3-7-48 showing that the voter is registered in the precinct where the voter resides and offers to vote.
 - (B) Produces an affidavit executed under IC 3-10-10 or IC 3-10-11 if the voter executed an affidavit under those provisions.
 - (C) Makes an oral or a written affirmation under IC 3-10-12.

(b) A voter challenged under section 20 of this chapter:

- (1) whose name does not appear on the registration list; and**
 - (2) who is not permitted to cast a vote under IC 3-7-48-7;**
- is entitled to cast a provisional ballot under IC 3-11.7 if the voter makes an affidavit in writing that the voter is a legal voter of the precinct.**

SECTION 30. IC 3-11-8-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 23. The affidavit of a challenged voter required by section 22 of this chapter must be sworn and affirmed and must contain the following:

- (1) A statement that the voter is a citizen of the United States.
- (2) The voter's date of birth to the best of the voter's information and belief.
- (3) A statement that the voter has been a resident of the precinct for thirty (30) days immediately before this election or is qualified to vote in the precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12.
- (4) The voter's name and a statement that the voter is generally known by that name.
- (5) A statement that the voter has not voted and will not vote in any other precinct in this election.
- (6) The voter's occupation.
- (7) The voter's current residential address, including the street or number and if applicable, the voter's residential address thirty (30) days before the election, and the date the voter moved.
- (8) A statement that the voter understands that making a false



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statement on the affidavit is punishable under the penalties of perjury.

(9) If the individual's name does not appear on the registration list and the individual is not entitled to vote under IC 3-7-48-7, a statement that the individual registered to vote and where the individual believes the individual registered to vote.

SECTION 31. IC 3-11-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. **(a)** A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, **except as provided in subsection (b), do the following:**

- (1) Mark the ballot in the presence of no other person.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.
- (5) Securely seal the envelope. ~~and~~
- (6) Do one (1) of the following:
 - (A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.
 - (B) Deliver the envelope to the county election board in person.
 - (C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5.

(b) A voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6 is not required to comply with subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax shall do the following upon receipt of an absentee ballot transmitted by fax:

- (1) Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.**
- (2) Fold each ballot received from the voter separately so as to conceal the marking.**
- (3) Enclose each ballot in a blank absentee ballot envelope.**
- (4) Securely seal the envelope.**
- (5) Mark on the envelope: "Absentee Ballot Received by Fax".**
- (6) Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.**



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(c) Except as otherwise provided in this title, absentee ballots received by fax shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed.

SECTION 32. IC 3-11-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

~~(b)~~ (d) If a member of the absentee voter board questions whether a signature on a ballot envelope or transmitted affidavit is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 33. IC 3-11-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope or transmitted affidavit is not genuine, the board shall write upon the ballot envelope or transmitted affidavit the words "The county election board has questioned the genuineness of the signature of this voter.". These ballots shall be delivered to the polls on election day under section 12 of this chapter with instructions to verify the voter's signature under section 15 of this chapter.

SECTION 34. IC 3-11-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. If a county election board is unable to unanimously determine whether the signature on a ballot envelope is genuine, the board shall write upon the ballot envelope or transmitted affidavit the words "Signature

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Disputed". The board then shall deliver all disputed ballot envelopes, together with any evidence of a documentary nature presented before the board, to the proper precinct at the same time that undisputed ballots are delivered.

SECTION 35. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open."

SECTION 36. IC 3-11-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 14. Subject to section 11 of this chapter, absentee ballots received by mail **or fax** after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

SECTION 37. IC 3-11-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall **do all of the following:**

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application.
- (2) Announce the absentee voter's name. ~~and~~
- (3) Compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit attached to the ballot envelope.**

SECTION 38. IC 3-11-10-17, AS AMENDED BY P.L.38-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that **any of the following applies, a ballot may not be accepted or counted:**

- (1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 26 of this chapter;



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- 1 (B) the two (2) members of the absentee voter board visiting
 2 the voter under section 25(b) of the chapter; or
 3 (C) the two (2) appointed members of the county election
 4 board or their designated representatives under IC 3-11-4-19.
 5 (2) A copy of the voter's signature has been furnished to the
 6 precinct election board and that the signatures do not correspond
 7 or there is no signature.
 8 (3) The absentee voter is not a qualified voter in the precinct.
 9 (4) The absentee voter has voted in person at the election.
 10 (5) The absentee voter has not registered.
 11 (6) The ballot is open or has been opened and resealed. **This**
 12 **subdivision does not permit an absentee ballot transmitted by**
 13 **fax to be rejected because the ballot was sealed in the absentee**
 14 **ballot envelope by the individual designated by the circuit**
 15 **court to receive absentee ballots transmitted by fax.**
 16 (7) The ballot envelope contains more than one (1) ballot of any
 17 kind for the same office or public question.
 18 (8) In case of a primary election, if the absentee voter has not
 19 previously voted, the voter failed to execute the proper
 20 declaration relative to age and qualifications and the political
 21 party with which the voter intends to affiliate. ~~or~~
 22 (9) The ballot has been challenged and not supported.
 23 ~~then the ballots may not be accepted or counted.~~
 24 (b) Subsection (c) applies whenever a voter with a disability is
 25 unable to make a signature:
 26 (1) on an absentee ballot application that corresponds to the
 27 voter's signature in the records of the county voter registration
 28 office; or
 29 (2) on an absentee ballot secrecy envelope that corresponds with
 30 the voter's signature:
 31 (A) in the records of the county voter registration office; or
 32 (B) on the absentee ballot application.
 33 (c) The voter may request that the voter's signature or mark be
 34 attested to by:
 35 (1) the absentee voter board under section 25(b) of this chapter;
 36 (2) a member of the voter's household; or
 37 (3) an individual serving as attorney in fact for the voter.
 38 (d) An attestation under subsection (c) provides an adequate basis
 39 for an inspector to determine that a signature or mark complies with
 40 subsection (a)(2).
 41 SECTION 39. IC 3-11-10-24, AS AMENDED BY P.L.38-1999,
 42 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2003]: Sec. 24. (a) Except as provided in subsection (b), each a voter entitled to vote by absentee ballot who satisfies any of the following is entitled to vote by mail:

(1) The voter will be absent from the county on election day.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 40. IC 3-11-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 25. (a) ~~Voters A voter~~ who ~~are~~ ~~entitled to vote~~ ~~votes~~ by absentee ballot because of:

(1) illness or injury; or

(2) caring for a confined person at a private residence;

~~under IC 3-11-4-1~~ and who ~~are~~ ~~is~~ within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter



with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:
 - (A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
 - (B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

- (1) agreed to by the board and the voter; and
- (2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

SECTION 41. IC 3-11-10-26, AS AMENDED BY P.L.167-2001, SECTION 1, AND P.L.199-2001, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 26. (a) As an alternative to voting by mail, a voter **is** entitled to cast an absentee ballot ~~may vote by absentee ballot~~ before an absentee voter board:

- (1) in the office of the circuit court clerk; or
- (2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.



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(d) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(e) Notwithstanding subsection (d), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

SECTION 42. IC 3-11-15-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 13.5. (a) The commission shall determine whether a voting system provides a practical and effective means for voters with disabilities to cast ballots in private.**

(b) If the commission determines that any voting system meets the criteria described in subsection (a), a county may not purchase, lease, or lease-purchase any other voting system that does not meet the criteria described in subsection (a).

SECTION 43. IC 3-11-15-13.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 13.7. (a) A voting system may not be used in a precinct after December 31, 2004, unless the requirements of this section apply to the voting system actually in use in the precinct.**

(b) A voting system that has the ability must demonstrate to the voter whether any of the following apply to the voter's ballot:

(1) The voter has failed to cast votes for as many candidates as the voter is entitled to vote for an office.

(2) The voter has cast votes for too many candidates for an office.

(3) The voter has failed to cast a vote on a public question.

(4) The voter has cast votes both in favor of and in opposition to a public question.

(c) The components of a voting system that provide information to the voter under subsection (b) may be separate from the components of the voting system the voter uses to record the voter's votes.

(d) Except as provided in subsection (e), a voting system must be able to inform the voter how the voter may correct errors on the voter's ballot.

(e) A voting system is not required to provide the information

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1 required by subsection (d) if the information is provided in writing
 2 conspicuously on or near the components of the ballot card voting
 3 system that verify a voter's vote.

4 SECTION 44. IC 3-11.5-2-5 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 6 JANUARY 1, 2003]: Sec. 5. An absentee ballot application or an
 7 absentee ballot is considered "sent" to a voter if the application or
 8 ballot is:

- 9 (1) sent by United States mail addressed to the voter;
 10 (2) transmitted by fax to a number provided by the voter; or
 11 (3) personally given to the voter.

12 SECTION 45. IC 3-11.5-4-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. Each circuit
 14 court clerk shall do the following:

15 (1) Keep a separate absentee ballot record for each precinct in the
 16 county.

17 (2) Certify to each inspector or the inspector's representative, at
 18 the time that the ballots and supplies are delivered under
 19 IC 3-11-3, the names of the voters:

20 (A) to whom absentee ballots were ~~delivered or mailed~~ sent or
 21 who marked ballots in person; and

22 (B) whose ballots have been received by the county election
 23 board under IC 3-11-10.

24 SECTION 46. IC 3-11.5-4-4 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. If a county
 26 election board finds that the signature on a ballot envelope **or**
 27 **transmitted affidavit** is not genuine, the board shall write upon the
 28 ballot envelope the words "The county election board has rejected this
 29 ballot because the signature of this voter is not genuine."

30 SECTION 47. IC 3-11.5-4-5 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county
 32 election board unanimously finds that the signature on a ballot
 33 envelope **or transmitted affidavit** is genuine, the board shall enclose
 34 immediately the accepted and unopened ballot envelope, together with
 35 the voter's application for the absentee ballot, in a large or carrier
 36 envelope. The envelope shall be securely sealed and endorsed with the
 37 name and official title of the circuit court clerk and the following
 38 words: "This envelope contains an absentee ballot and must be opened
 39 only on election day under IC 3-11.5."

40 SECTION 48. IC 3-11.5-4-8 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. (a) Each county
 42 election board shall certify the names of voters:

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(1) to whom absentee ballots were ~~delivered or mailed~~ sent or who marked ballots in person; and

(2) whose ballots have been received by the board under this chapter;

after the certification under section 1 of this chapter and not later than noon on election day.

(b) The county election board shall have the certificates described in subsection (a) delivered to the precinct election boards at their respective polls on election day by couriers appointed under section 22 of this chapter.

(c) The certificates shall be delivered not later than 3 p.m. on election day.

SECTION 49. IC 3-11.5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 9. (a) Upon delivery of the ~~certificate~~ **certificates** under section 8 of this chapter to a precinct election board, the inspector shall mark the poll list. in the presence of the poll clerks. The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list **and attached the certificates** under this section in the presence of both poll clerks to indicate that the absentee ballot of the voter has been received by the county election board.

(b) If a person listed in the certificate has voted in person at the polls before the delivery of the certificate, the inspector shall initial the voter's name on the certificate in the presence of both poll clerks. The poll clerks shall sign the statement printed on the certificate **supplied under section 1 of this chapter** indicating that the inspector initialed the names of voters under this subsection in the presence of both poll clerks.

(c) The inspector shall then deposit:

(1) the certificate prepared under section 1 of this chapter;

(2) the certificate prepared under section 8 of this chapter; and

(3) any challenge affidavit executed by a qualified person under section 16 of this chapter;

in an envelope in the presence of both poll clerks.

(d) The inspector shall seal the envelope. The inspector and each poll clerk shall then sign a statement printed on the envelope indicating that the inspector or poll clerk has complied with the requirements of this chapter governing the marking of the poll list and certificates.

(e) The couriers shall immediately return the envelope described in subsection (c) to the county election board. Upon delivering the envelope to the county election board, each courier shall sign a statement printed on the envelope indicating that the courier has not

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opened or tampered with the envelope since the envelope was delivered to the courier.

SECTION 50. IC 3-11.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail **or fax** after noon on election day are considered as arriving too late and may not be counted.

SECTION 51. IC 3-11.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. At any time after the couriers return the certificate under section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

- (1) open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) announce the absentee voter's name; and
- (3) compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit.**

SECTION 52. IC 3-11.5-4-13, AS AMENDED BY P.L.38-1999, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that **any of the following applies, the ballots shall be rejected:**

- (1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-26;
 - (B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) The signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. **This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.**



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(7) The ballot envelope contains more than one (1) ballot of any kind.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate. ~~or~~

(9) The ballot has been challenged and not supported.
~~the ballots shall be rejected:~~

(b) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(c) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote.

SECTION 53. IC 3-11.7 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

ARTICLE 11.7. PROVISIONAL VOTING

Chapter 1. Application and General Provisions

Sec. 1. This article applies to all elections held after December 31, 2003.

Sec. 2. (a) Except as provided in subsection (b), a provisional ballot must have the same form as an absentee ballot for:

- (1) the election for which the ballot is cast; and**
- (2) the precinct in which the ballot is cast.**

(b) A provisional ballot must indicate that the ballot is a provisional ballot and not an absentee ballot.

Sec. 3. Except as otherwise provided in this article, the procedures described in this title for paper ballots apply to provisional ballots.

Sec. 4. Each circuit court clerk shall:

- (1) not less than sixty (60) days before the date on which a general, primary, or municipal election is held; or**
- (2) not more than three (3) days after the date on which a special election is ordered;**

estimate the number of provisional ballots that will be required in the county for the election.

Sec. 5. (a) Provisional ballots for:

- (1) President and Vice President of the United States;**

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1 (2) United States Senator;

2 (3) all state offices; and

3 (4) the ratification or rejection of a public question to be voted
4 for by the electorate of the entire state or for the retention of
5 a judge of the Indiana supreme court or the Indiana court of
6 appeals;

7 shall be prepared and printed under the direction of the election
8 division.

9 (b) The election division shall have the ballots printed upon
10 certification of the political party tickets and independent
11 candidates.

12 (c) Ballots prepared under this section must provide space for
13 the provisional voter to cast a write-in ballot.

14 (d) The provisional ballots that are prepared and printed under
15 this section shall be delivered to the circuit court clerk or the
16 clerk's authorized deputy not later than forty-five (45) days before
17 a general election or twenty-nine (29) days before a special election.
18 The provisional ballots shall be delivered in the same manner that
19 other official ballots are delivered.

20 Sec. 6. (a) All provisional ballots other than those described in
21 section 5 of this chapter shall be prepared and printed under the
22 direction of each county election board.

23 (b) After completing the estimate required by section 4 of this
24 chapter, the county election board shall immediately prepare the
25 ballots and have the ballots printed.

26 (c) Ballots prepared by the county election board under this
27 section must provide space for the voter to cast a write-in ballot.

28 (d) The provisional ballots that are prepared and printed under
29 this section shall be delivered to the circuit court clerk not later
30 than:

31 (1) forty-five (45) days before a general, primary, or
32 municipal election;

33 (2) thirty-two (32) days before a special election.

34 Sec. 7. Each provisional ballot must be signed by the circuit
35 court clerk or an individual authorized by the circuit court clerk
36 and have the circuit court clerk's seal affixed.

37 Sec. 8. The county election board shall provide to each precinct
38 election board envelopes marked "Provisional Ballot" in which a
39 provisional voter places the voter's provisional ballots.

40 Sec. 9. Each package of provisional ballots delivered to a circuit
41 court clerk shall be plainly marked, on an appropriate attached
42 label, with the words: "This package contains _____ (giving



number of ballots) provisional ballots.". The clerk shall securely keep all ballots in the clerk's office and shall distribute them to applicants as provided in this article.

Chapter 2. Casting a Provisional Ballot

Sec. 1. An individual:

(1) who is challenged;
 (2) whose name does not appear on the registration list; and
 (3) who is not permitted to vote under IC 3-7-48-7;
 may cast a provisional ballot if the individual executes an affidavit described in IC 3-11-8-23.

Sec. 2. (a) A provisional voter shall do the following:

- (1) Mark the ballot in the presence of no other person.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided by the county election board under IC 3-11.7-1-8.
- (5) Securely seal the envelope.

(b) A provisional voter may mark a ballot with a pen or a lead pencil.

Sec. 3. (a) The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) The precinct election board shall securely keep the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

Sec. 4. At the close of the polls, the precinct election board shall seal:

- (1) all the provisional ballots; and
- (2) any spoiled provisional ballots;

in the container described in section 3(b) of this chapter and mark on the container the number of provisional ballots contained. The inspector shall return the container with all the provisional ballots to the circuit court clerk after the close of the polls.

Chapter 3. Provisional Ballot Counters

Sec. 1. Each county election board shall appoint teams of provisional ballot counters consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

Sec. 2. An otherwise qualified person is eligible to serve as a counter unless the person:

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1 (1) is unable to read, write, and speak the English language;
 2 (2) has any property bet or wagered on the result of the
 3 election;
 4 (3) is a candidate to be voted for at the election, except as an
 5 unopposed candidate for precinct committeeman or state
 6 convention delegate; or
 7 (4) is the spouse, parent, father-in-law, mother-in-law, child,
 8 son-in-law, daughter-in-law, grandparent, grandchild,
 9 brother, sister, brother-in-law, sister-in-law, uncle, aunt,
 10 nephew, or niece of a candidate or declared write-in candidate
 11 to be voted for at the election except as an unopposed
 12 candidate. This subdivision disqualifies a person whose
 13 relationship to the candidate is the result of birth, marriage,
 14 or adoption.

15 Sec. 3. Not later than noon ten (10) days before an election, each
 16 county election board shall notify the county chairmen of the two
 17 (2) political parties that have appointed members on the county
 18 election board of the number of teams of counters to be appointed
 19 under this section.

20 Sec. 4. The county chairmen shall make written
 21 recommendations for the appointments to the county election
 22 board not later than noon three (3) days before the election. The
 23 county election board shall make the appointments as
 24 recommended.

25 Sec. 5. If a county chairman fails to make any recommendations,
 26 the county election board may appoint any voters of the county.

27 Sec. 6. An individual serving as an absentee ballot counter under
 28 IC 3-11.5-4-12 may also serve as a provisional ballot counter under
 29 this chapter.

30 Chapter 4. Watchers for Political Parties, Candidates, and the 31 Media

32 Sec. 1. The following apply for the purposes of IC 3-6-8,
 33 IC 3-6-9, and IC 3-6-10:

34 (1) The location for counting provisional ballots shall be
 35 treated the same as a precinct poll.

36 (2) A provisional ballot counter shall be treated the same as a
 37 precinct election official.

38 Sec. 2. (a) Political parties or independent candidates described
 39 in IC 3-6-8-1 may appoint watchers at the location for counting
 40 provisional ballots.

41 (b) A watcher appointed under this section:

42 (1) has the rights; and

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(2) must follow the requirements;
set forth in IC 3-6-8.

Sec. 3. (a) A candidate entitled to appoint a watcher under IC 3-6-9 may appoint a watcher at the location for counting provisional ballots.

(b) A watcher appointed under this section:

(1) has the rights; and

(2) must follow the requirements;
set forth in IC 3-6-9.

Sec. 4. (a) Media entitled to appoint a watcher under IC 3-6-10 may appoint a watcher at the location for counting provisional ballots.

(b) A watcher appointed under this section:

(1) has the rights; and

(2) must follow the requirements;
set forth in IC 3-6-10.

Chapter 5. Counting Provisional Ballots

Sec. 1. After the close of the polls, provisional ballots shall be counted as provided in this chapter.

Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that each of the following applies, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct.

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;

(B) information contained in the county's voter registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board may not determine that the provisional voter did not register unless both of the following apply:

(1) The board makes an actual inquiry of the registration agency where the provisional voter states the provisional

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voter registered.

(2) The registration agency informs the board that the registration agency has no record of the provisional voter's registration.

Sec. 3. (a) If the board determines that section 2(a)(1), 2(a)(2), or 2(a)(3) of this chapter does not apply, all the following apply:

(1) The provisional ballot is invalid.

(2) The provisional ballot may not be counted.

(3) The provisional ballot envelope containing the ballots cast by the provisional voter may not be opened.

(b) If the county election board determines that a provisional ballot is invalid, a notation shall be made on the provisional ballot envelope: "Provisional ballot determined invalid."

Sec. 4. If the board determines that a provisional ballot is valid under section 2 of this chapter, the provisional ballot envelope shall be opened. The outside of each provisional ballot shall also be marked to identify the precinct and the date of the election of the ballots.

Sec. 5. (a) If any ballot cast by a provisional voter does not contain the initials of the poll clerks, the ballot shall be endorsed with the word "Rejected" without being unfolded to disclose how the ballot is marked.

(b) All rejected provisional ballots shall be enclosed and securely sealed in an envelope on which is written "Rejected provisional ballots."

Sec. 6. The valid provisional ballots printed by the election division shall be counted before counting the valid provisional ballots printed by the county election board.

Sec. 7. To minimize delay, all provisional ballots for a precinct shall be counted without interruption until all provisional ballots for the precinct are canvassed and the certificates required by this chapter are prepared and delivered to the person entitled to receive the certificates.

Sec. 8. The provisional ballots shall be counted by laying each ballot upon a table in the order in which the ballots were opened.

Sec. 9. (a) During the counting of the ballots, one (1) counter shall read the name of the candidates voted for from the ballots.

(b) A:

(1) member of the county election board who is not a member of the same political party as the counter; or

(2) representative designated by the member;

shall view the ballots as the names are read.



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1 **Sec. 10. During the counting of the ballots:**

2 (1) the counter counting the ballots;

3 (2) a member of the county election board; or

4 (3) a representative designated by the members;

5 **may protest the counting of any ballot or any part of a ballot.**

6 **Sec. 11. If the counters cannot agree whether to count a ballot**
 7 **following a protest under section 10 of this chapter, the question**
 8 **shall be referred to the county election board for a decision.**

9 **Sec. 12. Following a decision by the counters or the county**
 10 **election board, the counters shall officially sign each protested**
 11 **ballot.**

12 **Sec. 13. If a ballot or any part of a ballot is protested and the**
 13 **protest is resolved, the counter immediately shall write on the back**
 14 **of the protested ballot the word "counted" or "not counted", as**
 15 **appropriate.**

16 **Sec. 14. A counter may not count provisional ballots for a**
 17 **precinct under this chapter while counting provisional ballots for**
 18 **any other precinct.**

19 **Sec. 15. (a) This section applies if at least two (2) sets of counters**
 20 **in a county are counting provisional ballots under this chapter.**

21 **(b) A set of counters may count provisional ballots from a**
 22 **precinct while another set of counters is counting provisional**
 23 **ballots from another precinct in the county if each set of counters**
 24 **counts the ballots in compliance with section 9 of this chapter.**

25 **Sec. 16. (a) This section applies to the counting of write-in**
 26 **provisional ballots.**

27 **(b) If a voter writes an abbreviation, a misspelling, or other**
 28 **minor variation instead of the correct name of a candidate or**
 29 **political party, that vote shall be counted if the intent of the voter**
 30 **can be determined.**

31 **(c) If a voter casts a ballot under this section for President or**
 32 **Vice President and writes in the name of a candidate or political**
 33 **party that has not certified a list of electors under IC 3-10-4-5, the**
 34 **vote for President or Vice President is void. The remaining votes**
 35 **on the ballot may be counted.**

36 **(d) IC 3-12-1-7 applies to write-in provisional ballots.**

37 **Sec. 17. When all the votes have been counted, the counters shall**
 38 **prepare a certificate stating the number of votes that each**
 39 **candidate received for each office and the number of votes cast on**
 40 **each public question.**

41 **Sec. 18. The number of votes that each candidate and public**
 42 **question received shall be written in words and numbers. The**

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counters shall prepare a memorandum of the total votes cast for each candidate and on each public question and ensure that each member of the county election board receives a copy of the memorandum.

Sec. 19. The counters shall deliver the certificates prepared under section 17 of this chapter and the tally papers to the county election board immediately upon the tabulation of the vote in each precinct.

Sec. 20. As soon as the ballots have been counted, the counters shall do the following in the presence of the county election board:

- (1) Place in a strong paper envelope or bag the following:
 - (A) All provisional ballots, voted and spoiled.
 - (B) All provisional ballots:
 - (i) determined invalid under section 3 of this chapter; or
 - (ii) rejected under section 5 of this chapter.
 - (C) All protested and uncounted provisional ballots.
 - (D) All provisional ballot envelopes.
 - (E) All executed affidavits relating to the provisional ballots.
 - (F) The tally papers.
- (2) Securely seal the envelope or bag.
- (3) Have both counters initial the envelope or bag.
- (4) Plainly mark on the outside of the envelope or bag, in ink, the precinct in which the provisional ballots were cast.
- (5) Deliver the envelope or bag to the circuit court clerk.
- (6) Notify the circuit court clerk of the number of ballots placed in the envelope or bag.

Sec. 21. Upon delivery of the envelope or bag to the circuit court clerk, each counter shall take and subscribe an oath before the clerk stating that the counter:

- (1) securely kept the ballots and papers in the envelope or bag;
- (2) did not permit any person to open the envelope or bag or to otherwise touch or tamper with the ballots; and
- (3) has no knowledge of any other person opening the envelope or bag.

Sec. 22. The circuit court clerk shall file the oath taken under section 21 of this chapter with the clerk's other election documents.

Sec. 23. The circuit court clerk shall place the envelope or bag in a receptacle provided by the county executive with two (2) different locks.

Sec. 24. The circuit court clerk shall do the following:



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(1) Lock the receptacle provided under section 23 of this chapter.

(2) Retain one (1) key to one (1) lock of the receptacle.

(3) Give one (1) key to the other lock of the receptacle to the member of the county election board who is not a member of the same political party as the clerk.

Sec. 25. The circuit court clerk shall preserve the receptacle containing the envelope or bag in the clerk's office for the period required under IC 3-10-1-31.

Sec. 26. If the election is contested, the clerk shall preserve the receptacle containing the envelope or bag as long as the contest is undetermined. During that period, the clerk shall keep the receptacle securely locked, subject only to an order of the court trying a contest.

Sec. 27. When permitted under IC 3-10-1-31, the clerk and a county election board member of the opposite political party shall remove the envelope or bag from the receptacle and destroy the envelope or bag.

Sec. 28. A county election board may contract with a state educational institution (as defined in IC 20-12-0.5-1) to dispose of the ballots. The contract must provide that:

(1) the ballots will be used by the state educational institution to conduct election research; and

(2) the state educational institution may not receive any ballots under this section until the period for retention under IC 3-10-1-31 has expired.

Sec. 29. Immediately upon completion of the vote count, the counters shall make and sign a certificate for the news media showing the total number of provisional ballot votes received by each candidate and on each public question in the precinct.

Sec. 30. The absentee ballot counters shall deliver the certificate to the circuit court clerk as soon as the certificate is completed. The circuit court clerk shall deliver the certificate made for the news media to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county immediately upon the completion of the certificate, but not before the closing of the polls.

Chapter 6. Additional Provisions Relating to Provisional Ballots

Sec. 1. (a) Provisional ballot counters shall conduct the activities conducted by precinct election officials under IC 3-12-4.

(b) The returns of provisional ballot counters shall be treated



the same as the returns of a precinct election board under IC 3-12-4.

Sec. 2. A provisional ballot is considered to be cast in the precinct in which the voter who cast the ballot resides for the purpose of the following:

(1) IC 3-12-6.

(2) IC 3-12-11.

(3) IC 3-12-12.

SECTION 54. IC 3-12-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The return printed by the automatic tabulating machines, along with the return of votes by absentee **and provisional** voters, constitutes the official return of each precinct. Upon completion of the count, the return is open to the public.

(b) This subsection applies if the votes have been cast on a ballot card voting system that is not designed to allow the counting and tabulation of votes by the precinct election board. The circuit court clerk shall, upon request, furnish to the media in the area the results of the tabulation.

(c) This subsection applies if the votes have been cast on a ballot card voting system that is designed to allow the counting and tabulation of votes by the precinct election board. Upon receiving the certificate for the media prepared under section 2(c) of this chapter, the circuit court clerk shall deliver the certificate to any person designated to receive the certificate by the editors of the newspapers published in the county or by the managers of the radio and television stations operating in the county.

SECTION 55. IC 3-14-2-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 27. A precinct election officer ~~who~~, at the close of the polls, ~~or~~ an absentee ballot counter acting under IC 3-11.5-5 or IC 3-11.5-6, **or a provisional ballot counter acting under IC 3-11.7-5** who knowingly:

(1) causes the vote to be incorrectly taken down for a candidate or public question; or

(2) makes a false statement, certificate, or return of any kind of that vote;

commits a Class D felony.

SECTION 56. IC 3-14-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. A member of a precinct election board, ~~or~~ an absentee ballot counter appointed under IC 3-11.5-4-22, **or a provisional ballot counter appointed under IC 3-11.7-3** who knowingly:

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1 (1) opens or marks, by folding or otherwise, a ballot presented by
2 a voter, except as provided by law; or
3 (2) tries to find out how the voter voted before the ballot is
4 deposited in the ballot box or cast on a voting machine, ballot
5 card voting system, or electronic voting system or counted by the
6 absentee ballot counter;
7 commits a Class D felony.
8 SECTION 57. THE FOLLOWING ARE REPEALED[EFFECTIVE
9 JANUARY 1, 2003]: IC 3-11-4-9; IC 3-11.5-4-25; IC 3-11.5-4-26;
10 IC 3-11.5-4-27.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1224, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-23.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 23.7. "Fax" refers to transmission of information by a facsimile (fax) machine.**"

Page 3, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 5. IC 3-7-36-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 2. A voter described in section 1 of this chapter who ~~wants to~~**

(1) ~~is eligible for an vote~~ **by** absentee ballot under IC 3-11-4; and

(2) ~~wants to~~ execute an affidavit or a form for voter registration;

is not required to sign the affidavit or form in the presence of a person authorized to administer an oath, and the affidavit or form need not be signed by such a person.

SECTION 6. IC 3-7-36-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 5. (a) This section does not apply to a voter who files a combined absentee registration form and absentee ballot request.**

(b) When a circuit court clerk or board of registration receives an application for absentee registration, the clerk or board shall promptly mail or deliver to the applicant the affidavit prescribed by this ~~chapter~~ **title** for the registration of an absentee voter by absentee process.

(c) When the properly executed and certified affidavit is returned to the clerk or board, the applicant becomes a registered voter in the precinct of residence."

Page 6, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 15. IC 3-11-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 0.5. For purposes of this chapter, an absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:**

(1) sent by United States mail addressed to the voter;

(2) transmitted by fax to a number provided by the voter; or

(3) personally given to the voter.

SECTION 16. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 1. (a) A voter who**

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is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, but who expects to be:

- (1) absent from the county on election day;
- (2) absent from the precinct of the voter's residence on election day because of service as a precinct election officer under IC 3-6-5, IC 3-6-6, or IC 3-6-8, as a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10, as a challenger or pollbook holder under IC 3-6-7, or as a person employed by an election board to administer the election for which the absentee ballot is requested;
- (3) confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury;
- (4) a voter with disabilities;
- (5) an elderly voter;
- (6) prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury; or
- (7) scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open;

is eligible entitled to vote by absentee ballot. **Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk or at a satellite office established under IC 3-11-10-26.3.**

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person, including a person eligible to vote under IC 3-10-11 or IC 3-10-12, to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 17. IC 3-11-4-2, AS AMENDED BY P.L.38-1999, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2003]: Sec. 2. (a) A voter who ~~is eligible~~ **wants** to vote by absentee ballot must apply to the county election board for an official absentee ballot.

(b) If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

SECTION 18. IC 3-11-4-3, AS AMENDED BY P.L.176-1999, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 3. (a) Except as provided in subsection (b) and sections 6 and 8 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ninety (90) days before election day nor later than the following:

(1) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk.

(2) Noon on the day before election day if:

(A) the application is a mailed or hand delivered application from a confined voter or voter caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.

(3) Midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by a ~~facsimile~~ fax; ~~machine~~; from other voters.

(b) This subsection applies to an absentee ballot application from a confined voter or voter caring for a confined person that is sent by ~~facsimile~~ fax, ~~transmission~~, mailed, or hand delivered to the circuit court clerk of a county having a consolidated city. An application subject to this subsection that is sent by ~~facsimile~~ fax ~~transmission~~ or hand delivered must be received by the circuit court clerk not earlier than ninety (90) days before election day nor later than 10 p.m. on the fifth day before election day. An application subject to this subsection that is mailed must be received by the circuit court clerk not earlier than ninety (90) days before election day and not later than 10 p.m. on the eighth day before election day.

SECTION 19. IC 3-11-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Applications may be made:

(1) in person;



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(2) by fax; ~~transmission~~; or
 (3) by mail;
 on application forms furnished by the county election board or approved by the commission.

(b) Application forms shall:

(1) be furnished to all central committees in the county no later than:

(A) June 15, for a general election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the primary election; or

(B) January 15, for a primary election or a special election ordered under IC 3-12-8-17 or IC 3-12-11-18 following the general election;

(2) be:

(A) mailed; or

(B) ~~except as provided in subsection (c);~~ transmitted by fax; ~~machine;~~

upon request, to a voter applying by mail, by telephone, or by fax; ~~transmission~~; and

(3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) The county election board shall:

(1) accept; and

(2) transmit;

applications for absentee ballots under subsection (a) ~~using a facsimile (FAX) machine. only if the county election board owns or has access to a FAX machine. However, by fax.~~ A county election board shall accept an application for an absentee ballot transmitted by fax ~~machine~~ even though the application is delivered to the county election board by a person other than the person submitting the application.

SECTION 20. IC 3-11-4-6, AS AMENDED BY P.L.273-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for **the following:**

(1) An absent uniformed services voter. ~~(as defined in 42 U.S.C. 1973ff-6(1)); and~~

(2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).

(3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after

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November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(d) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(e) Whenever ~~an absent uniformed services voter or an address confidentiality program participant (as defined in IC 5-26.5-1-6)~~ **a voter described in subsection (a)** files an application for a primary election absentee ballot and indicates on the application that:

- (1) the voter is an absent uniformed services voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application; ~~or~~
- (2) the voter is an address confidentiality program participant; **or**
- (3) the voter is an overseas voter and does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application;**

the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and ~~mail~~ **send** general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and ~~mailed sent~~ under this chapter.

(f) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

- (1) To a law enforcement agency, upon request.
- (2) As directed by a court order.



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(g) This subsection applies to a county election board that owns or has access to a facsimile (FAX) machine. The county election board ~~may~~ **shall** transmit and receive absentee ballots by fax machine to voters covered under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff) under the following circumstances:

(1) If an emergency is declared by the President of the United States, the Congress of the United States, or the presidential designee under the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff);

(2) If otherwise mandated to do so under federal law.

to an absent uniformed services voter or an overseas voter at the request of the voter. If the voter wants to submit absentee ballots by fax, the voter must separately sign and date a statement on the cover of the fax transmission that states substantively the following: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot."

(h) The county election board shall send confirmation to a voter described in subsection (g) that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If the voter does not provide a fax number or an electronic mail address, the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the county election board receives the voter's absentee ballot.

SECTION 21. IC 3-11-4-7, AS AMENDED BY P.L.273-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 7. (a) An absentee ballot application under section 6 of this chapter must

(1) be made on a standard form approved under 42 U.S.C. 1973ff(b) or on the form prescribed by the commission under section 5.1 of this chapter. ~~and~~

(2) ~~show that the:~~ (b) An absentee ballot application under section 6 of this chapter from an:



(A) (1) absent uniformed services voter; (as defined in 42 U.S.C. 1973ff-6(1)); or

(B) (2) address confidentiality program participant (as defined in IC 5-26.5-1-6);

must show that the voter or program participant is a resident otherwise qualified to vote in the precinct.

(c) An absentee ballot application under section 6 of this chapter from an overseas voter must show that the overseas voter was a resident and otherwise qualified to vote in the precinct where the voter resided before leaving the United States.

SECTION 22. IC 3-11-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. (a) Except as provided in subsection (b), an overseas voter may apply for an absentee ballot from this state and vote by absentee ballot in an election in this state for which the voter is qualified and in which absentee ballots are used:

(b) An overseas voter who resides outside the United States and who is no longer a resident of a precinct in Indiana is only entitled to receive absentee ballots for a federal office under this chapter.

(c) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (d), the person may apply for an absentee ballot at any time after the applications are made available.

(d) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing a standard form approved under 42 U.S.C. 1973ff(b).

(e) If the county election board receives an absentee ballot application from a person described by this section, the circuit court clerk shall mail to the person, free of postage to the extent as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under sections 13 and 15 of this chapter.

(f) Whenever an overseas voter files an application for a primary election absentee ballot under this section and indicates on the application that the voter does not expect to be in the county on general election day and on the date of any special election conducted during the twelve (12) months following the date of the application, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and mail general election and special election

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absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and mailed under this chapter.

SECTION 23. IC 3-11-4-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. Upon receipt of an application for an absentee ballot, a circuit court clerk shall file the application in the clerk's office and record **all of the following**:

- (1) The voter's name.
- (2) The date the application is received.
- (3) The date the ballot is ~~mailed or delivered~~ sent to the voter.
- (4) If mailed, the address to which the ballot is sent.
- (5) **If transmitted by fax, the fax number to which the ballot is faxed.**
- (6) The date the ballot is marked before the clerk or otherwise received from the voter. ~~and~~
- ~~(6)~~ (7) Any other information that is necessary or advisable.

SECTION 24. IC 3-11-4-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 18. (a) If a voter ~~is entitled to vote an absentee ballot~~, **satisfies any of the following**, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application:

- (1) **The voter will be absent from the county on election day.**
 - (2) **The voter will be absent from the precinct of the voter's residence on election day because of service as:**
 - (A) a precinct election officer under IC 3-6-6;
 - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - (C) a challenger or pollbook holder under IC 3-6-7; or
 - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
 - (3) **The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.**
 - (4) **The voter is a voter with disabilities.**
 - (5) **The voter is an elderly voter.**
 - (6) **The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.**
 - (7) **The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.**
- (b) The ballot shall be mailed:

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(1) on the day of the receipt of the voter's application; or
 (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;
 whichever is later.

(c) In addition to the ballot mailed under subsection (b), the county election board shall mail a special absentee ballot for

- ~~(1) absent uniformed services voters; and~~
~~(2) overseas voters.~~

~~who will be outside of the United States on general election day.~~

(d) The ballot described in subsection (c):

(1) must be mailed:

- (A) on the day of the receipt of the voter's application; or
 (B) not more than five (5) days after the date of delivery of the ballots under section 13(b) of this chapter;

whichever is later; and

(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

SECTION 25. IC 3-11-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 22. Each circuit court clerk shall **do both of the following**:

(1) Keep a separate absentee ballot record for each precinct in the county. ~~and~~

(2) Certify to each inspector, at the time that the absentee ballots are delivered, **all the following**:

(A) The number of absentee ballots ~~delivered or mailed sent~~ to each absentee voter.

(B) The number of absentee ballots marked before the clerk. ~~and~~

(C) The names of the voters to whom the ballots were ~~delivered or mailed sent~~ or who marked ballots in person."

Page 10, between lines 27 and 28, begin a new paragraph and insert:
 "SECTION 31. IC 3-11-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. **(a)** A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, **except as provided in subsection (b), do the following**:

(1) Mark the ballot in the presence of no other person.

(2) Fold each ballot separately.

(3) Fold each ballot so as to conceal the marking.

(4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the

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envelope provided.

(5) Securely seal the envelope. ~~and~~

(6) Do one (1) of the following:

(A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.

(B) Deliver the envelope to the county election board in person.

(C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5.

(b) A voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6 is not required to comply with subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax shall do the following upon receipt of an absentee ballot transmitted by fax:

(1) Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.

(2) Fold each ballot received from the voter separately so as to conceal the marking.

(3) Enclose each ballot in a blank absentee ballot envelope.

(4) Securely seal the envelope.

(5) Mark on the envelope: "Absentee Ballot Received by Fax".

(6) Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.

(c) Except as otherwise provided in this title, absentee ballots received by fax shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed.

SECTION 32. IC 3-11-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

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(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears on the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

~~(b)~~ (d) If a member of the absentee voter board questions whether a signature on a ballot envelope **or transmitted affidavit** is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

SECTION 33. IC 3-11-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is not genuine, the board shall write upon the ballot envelope **or transmitted affidavit** the words "The county election board has questioned the genuineness of the signature of this voter.". These ballots shall be delivered to the polls on election day under section 12 of this chapter with instructions to verify the voter's signature under section 15 of this chapter.

SECTION 34. IC 3-11-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 6. If a county election board is unable to unanimously determine whether the signature on a ballot envelope is genuine, the board shall write upon the ballot envelope **or transmitted affidavit** the words "Signature Disputed". The board then shall deliver all disputed ballot envelopes, together with any evidence of a documentary nature presented before the board, to the proper precinct at the same time that undisputed ballots are delivered.

SECTION 35. IC 3-11-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope **or transmitted affidavit** is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open.".

SECTION 36. IC 3-11-10-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 14. Subject to

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section 11 of this chapter, absentee ballots received by mail **or fax** after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

SECTION 37. IC 3-11-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall **do all of the following:**

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application.
- (2) Announce the absentee voter's name. ~~and~~
- (3) Compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit attached to the ballot envelope.**

SECTION 38. IC 3-11-10-17, AS AMENDED BY P.L.38-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 17. (a) If the inspector finds under section 15 of this chapter that **any of the following applies, a ballot may not be accepted or counted:**

- (1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 26 of this chapter;
 - (B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or
 - (C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.
- (2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. **This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.**
- (7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.



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(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate. ~~or~~

(9) The ballot has been challenged and not supported.
~~then the ballots may not be accepted or counted.~~

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:

(A) in the records of the county voter registration office; or

(B) on the absentee ballot application.

(c) The voter may request that the voter's signature or mark be attested to by:

(1) the absentee voter board under section 25(b) of this chapter;

(2) a member of the voter's household; or

(3) an individual serving as attorney in fact for the voter.

(d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

SECTION 39. IC 3-11-10-24, AS AMENDED BY P.L.38-1999, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 24. (a) Except as provided in subsection (b), ~~each a voter entitled to vote by absentee ballot who satisfies any of the following~~ is entitled to vote by mail:

(1) The voter will be absent from the county on election day.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities.

(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care



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of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(b) A voter with disabilities who:

- (1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and
- (2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

- (1) section 1.5 of this chapter; or
- (2) section 33 of this chapter.

SECTION 40. IC 3-11-10-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 25. (a) ~~Voters A voter who are entitled to vote~~ votes by absentee ballot because of:

- (1) illness or injury; or
- (2) caring for a confined person at a private residence;

~~under IC 3-11-4-1~~ and who ~~are~~ is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:
 - (A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
 - (B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:



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- (1) agreed to by the board and the voter; and
- (2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

SECTION 41. IC 3-11-10-26, AS AMENDED BY P.L.167-2001, SECTION 1, AND P.L.199-2001, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 26. (a) As an alternative to voting by mail, a voter **is** entitled to cast an absentee ballot ~~may vote by absentee ballot~~ before an absentee voter board:

- (1) in the office of the circuit court clerk; or
- (2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(e) Notwithstanding subsection (d), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day."

Page 11, delete lines 1 through 37, begin a new paragraph and insert:

"(b) A voting system that has the ability must demonstrate to the voter whether any of the following apply to the voter's ballot:

- (1) The voter has failed to cast votes for as many candidates as the voter is entitled to vote for an office.**
- (2) The voter has cast votes for too many candidates for an**



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office.

(3) The voter has failed to cast a vote on a public question.

(4) The voter has cast votes both in favor of and in opposition to a public question.

(c) The components of a voting system that provide information to the voter under subsection (b) may be separate from the components of the voting system the voter uses to record the voter's votes."

Page 11, line 38, delete "(e)" and insert "(d)".

Page 11, line 38, delete "(f)" and insert "(e)".

Page 11, line 41, delete "(f)" and insert "(e)".

Page 11, line 42, delete "(e)" and insert "(d)".

Page 12, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 44. IC 3-11.5-2-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: **Sec. 5. An absentee ballot application or an absentee ballot is considered "sent" to a voter if the application or ballot is:**

(1) sent by United States mail addressed to the voter;

(2) transmitted by fax to a number provided by the voter; or

(3) personally given to the voter.

SECTION 45. IC 3-11.5-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 1. Each circuit court clerk shall do the following:

(1) Keep a separate absentee ballot record for each precinct in the county.

(2) Certify to each inspector or the inspector's representative, at the time that the ballots and supplies are delivered under IC 3-11-3, the names of the voters:

(A) to whom absentee ballots were ~~delivered or mailed~~ sent or who marked ballots in person; and

(B) whose ballots have been received by the county election board under IC 3-11-10.

SECTION 46. IC 3-11.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 4. If a county election board finds that the signature on a ballot envelope **or transmitted affidavit** is not genuine, the board shall write upon the ballot envelope the words "The county election board has rejected this ballot because the signature of this voter is not genuine."

SECTION 47. IC 3-11.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 5. If a county election board unanimously finds that the signature on a ballot

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envelope **or transmitted affidavit** is genuine, the board shall enclose immediately the accepted and unopened ballot envelope, together with the voter's application for the absentee ballot, in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only on election day under IC 3-11.5."

SECTION 48. IC 3-11.5-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 8. (a) Each county election board shall certify the names of voters:

- (1) to whom absentee ballots were ~~delivered or mailed~~ **sent** or who marked ballots in person; and
- (2) whose ballots have been received by the board under this chapter;

after the certification under section 1 of this chapter and not later than noon on election day.

(b) The county election board shall have the certificates described in subsection (a) delivered to the precinct election boards at their respective polls on election day by couriers appointed under section 22 of this chapter.

(c) The certificates shall be delivered not later than 3 p.m. on election day.

SECTION 49. IC 3-11.5-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 9. (a) Upon delivery of the ~~certificate~~ **certificates** under section 8 of this chapter to a precinct election board, the inspector shall mark the poll list. in the presence of the poll clerks. The poll clerks shall sign the statement printed on the certificate indicating that the inspector marked the poll list **and attached the certificates** under this section in the presence of both poll clerks to indicate that the absentee ballot of the voter has been received by the county election board.

(b) If a person listed in the certificate has voted in person at the polls before the delivery of the certificate, the inspector shall initial the voter's name on the certificate in the presence of both poll clerks. The poll clerks shall sign the statement printed on the certificate **supplied under section 1 of this chapter** indicating that the inspector initialed the names of voters under this subsection in the presence of both poll clerks.

(c) The inspector shall then deposit:

- (1) the certificate prepared under section 1 of this chapter;
- (2) the certificate prepared under section 8 of this chapter; and
- (3) any challenge affidavit executed by a qualified person under



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section 16 of this chapter;
in an envelope in the presence of both poll clerks.

(d) The inspector shall seal the envelope. The inspector and each poll clerk shall then sign a statement printed on the envelope indicating that the inspector or poll clerk has complied with the requirements of this chapter governing the marking of the poll list and certificates.

(e) The couriers shall immediately return the envelope described in subsection (c) to the county election board. Upon delivering the envelope to the county election board, each courier shall sign a statement printed on the envelope indicating that the courier has not opened or tampered with the envelope since the envelope was delivered to the courier.

SECTION 50. IC 3-11.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 10. Subject to section 7 of this chapter, absentee ballots received by mail **or fax** after noon on election day are considered as arriving too late and may not be counted.

SECTION 51. IC 3-11.5-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 11. At any time after the couriers return the certificate under section 9 of this chapter, absentee ballot counters appointed under section 22 of this chapter, in the presence of the county election board, shall, except for a ballot rejected under section 13 of this chapter:

- (1) open the outer or carrier envelope containing an absentee ballot envelope and application;
- (2) announce the absentee voter's name; and
- (3) compare the signature upon the application with the signature upon the affidavit on the ballot envelope **or transmitted affidavit.**

SECTION 52. IC 3-11.5-4-13, AS AMENDED BY P.L.38-1999, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]: Sec. 13. (a) If the absentee ballot counters find under section 11 of this chapter that **any of the following applies, the ballots shall be rejected:**

- (1) The affidavit is insufficient or that the ballot has not been endorsed with the initials of:
 - (A) the two (2) members of the absentee voter board in the office of the clerk of the circuit court under IC 3-11-4-19 or IC 3-11-10-26;
 - (B) the two (2) members of the absentee voter board visiting the voter under IC 3-11-10-25; or
 - (C) the two (2) appointed members of the county election



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board or their designated representatives under IC 3-11-4-19.

- (2) The signatures do not correspond or there is no signature.
- (3) The absentee voter is not a qualified voter in the precinct.
- (4) The absentee voter has voted in person at the election.
- (5) The absentee voter has not registered.
- (6) The ballot is open or has been opened and resealed. **This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.**
- (7) The ballot envelope contains more than one (1) ballot of any kind.
- (8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate. ~~or~~
- (9) The ballot has been challenged and not supported.

~~the ballots shall be rejected:~~

(b) If the absentee ballot counters are unable to agree on a finding described under this section or section 12 of this chapter, the county election board shall make the finding.

(c) The absentee ballot counters or county election board shall issue a certificate to a voter whose ballot has been rejected under this section if the voter appears in person before the board not later than 5 p.m. on election day. The certificate must state that the voter's absentee ballot has been rejected and that the voter may vote in person under section 21 of this chapter if otherwise qualified to vote."

Page 21, after line 34, begin a new paragraph and insert:

"SECTION 57. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2003]: IC 3-11-4-9; IC 3-11.5-4-25; IC 3-11.5-4-26; IC 3-11.5-4-27."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1224 as introduced.)

KROMKOWSKI, Chair

Committee Vote: yeas 14, nays 0.



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